

STAYED, TYPE I-FOIA

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-02800-TSC**

HYATT v. UNITED STATES PATENT AND TRADEMARK
OFFICE

Assigned to: Judge Tanya S. Chutkan
Cause: 05:552 Freedom of Information Act

Date Filed: 11/30/2018
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

GILBERT P. HYATT

represented by **Andrew M. Grossman**
BAKER & HOSTETLER LLP
1050 Connecticut Avenue, NW
Suite 1100
Washington, DC 20036
(202) 861-1697
Fax: (202) 861-1783
Email: agrossman@bakerlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Mark Wendell DeLaquil
BAKER & HOSTETLER, LLP
1050 Connecticut Avenue, NW
Suite 1100
Washington, DC 20036
(202) 861-1527
Fax: (202) 861-1783
Email: mdeaquil@bakerlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

**UNITED STATES PATENT AND
TRADEMARK OFFICE**

represented by **Jason Todd Cohen**
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2523
Fax: (202) 252-2599
Email: jason.cohen@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Doris Denise Coles-Huff
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2557
Fax: (202) 252-2599
Email: doris.coles@usdoj.gov
TERMINATED: 02/05/2019

Date Filed	#	Docket Text
------------	---	-------------

11/30/2018	<u>1</u>	COMPLAINT against UNITED STATES PATENT AND TRADEMARK OFFICE (Filing fee \$ 400) filed by GILBERT P. HYATT. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons, # <u>3</u> Summons, # <u>4</u> Summons, # <u>5</u> Exhibit Exhibit A, # <u>6</u> Exhibit Exhibit B, # <u>7</u> Exhibit Exhibit C, # <u>8</u> Exhibit Exhibit D, # <u>9</u> Exhibit Exhibit E, # <u>10</u> Exhibit Exhibit F, # <u>11</u> Exhibit Exhibit G, # <u>12</u> Exhibit Exhibit H – One, # <u>13</u> Exhibit Exhibit H – Two, # <u>14</u> Exhibit Exhibit I, # <u>15</u> Exhibit Exhibit J)(DeLaquil, Mark) (Entered: 11/30/2018)
11/30/2018		Case Assigned to Judge Tanya S. Chutkan. (zef,) (Entered: 12/03/2018)
12/03/2018	<u>2</u>	Payment for <u>1</u> Complaint,,, (\$400; Receipt number 0090–5818591). (DeLaquil, Mark) (Entered: 12/03/2018)
12/03/2018	<u>3</u>	SUMMONS (3) Issued Electronically as to All Defendants, U.S. Attorney and U.S. Attorney General. (Attachments: # <u>1</u> Notice and Consent)(zef,) (Entered: 12/03/2018)
12/03/2018	<u>4</u>	SEALED MOTION FOR LEAVE TO FILE DOCUMENT UNDER SEAL filed by GILBERT P. HYATT (This document is SEALED and only available to authorized persons.) (Attachments: # <u>1</u> Exhibit, # <u>2</u> Text of Proposed Order)(DeLaquil, Mark) (Entered: 12/03/2018)
12/03/2018	<u>5</u>	MOTION for Summary Judgment by GILBERT P. HYATT (Attachments: # <u>1</u> Declaration, # <u>2</u> Statement of Facts, # <u>3</u> Text of Proposed Order)(DeLaquil, Mark) (Entered: 12/03/2018)
12/03/2018		MINUTE ORDER: Plaintiff's motion for summary judgment <u>5</u> is hereby DENIED without prejudice. Plaintiff's brief does not appear to comply with Local Civil Rule 5.1(d). Additionally, the court finds the motion premature. Once the Defendant has entered an appearance, the court will issue a case management order. Signed by Judge Tanya S. Chutkan on 12/3/18. (DJS) (Entered: 12/03/2018)
12/04/2018		MINUTE ORDER: Denying as moot <u>4</u> Plaintiff's Motion for Leave to File Documents Under Seal. See 12/3/18 Minute Order.SO ORDERED – by Judge Tanya S. Chutkan on 12/03/18. (tb) (Entered: 12/04/2018)
12/13/2018	<u>6</u>	ENTERED IN ERROR. . . .RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. UNITED STATES PATENT AND TRADEMARK OFFICE served on 12/6/2018 (DeLaquil, Mark) Modified on 12/18/2018 (ztd). (Entered: 12/13/2018)
12/13/2018	<u>7</u>	ENTERED IN ERROR. . . .RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 12/10/2018. Answer due for ALL FEDERAL DEFENDANTS by 1/9/2019. (DeLaquil, Mark) Modified on 12/18/2018 (ztd). (Entered: 12/13/2018)
12/13/2018	<u>8</u>	ENTERED IN ERROR. . . .RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 12/7/18. (DeLaquil, Mark) Modified on 12/18/2018 (ztd). (Entered: 12/13/2018)
12/13/2018	<u>9</u>	NOTICE of Appearance by Andrew M. Grossman on behalf of GILBERT P. HYATT (Grossman, Andrew) (Entered: 12/13/2018)
12/13/2018	<u>10</u>	CERTIFICATE OF SERVICE by GILBERT P. HYATT re <u>1</u> Complaint,,, (Attachments: # <u>1</u> Certificate of Service, # <u>2</u> Certificate of Service)(ztd) (Entered: 12/18/2018)
12/18/2018		NOTICE OF ERROR re <u>6</u> Summons Returned Executed as to Federal Defendant; emailed to mdelaquil@bakerlaw.com, cc'd 2 associated attorneys -- The PDF file you docketed contained errors: 1. Please refile document, 2. Refile documents with the documentation indicating the actual dates that service was made. (ztd,) (Entered: 12/18/2018)
12/18/2018		NOTICE OF ERROR re <u>7</u> Summons Returned Executed in FOIA as to U.S. Attorney; emailed to mdelaquil@bakerlaw.com, cc'd 2 associated attorneys -- The PDF file you docketed contained errors: 1. Please refile document, 2. Refile documents with the documentation indicating the actual dates that service was made. (ztd,) (Entered: 12/18/2018)

12/18/2018		NOTICE OF ERROR re <u>8</u> Summons Returned Executed as to U.S. Attorney General; emailed to mdelaquil@bakerlaw.com, cc'd 2 associated attorneys -- The PDF file you docketed contained errors: 1. Please refile document, 2. Refile documents with the documentation indicating the actual dates that service was made. (ztd,) (Entered: 12/18/2018)
12/18/2018	<u>11</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on 12/6/18 as to United States Patent and Trademark Office. (DeLaquil, Mark) Modified text on 12/18/2018 (ztd). (Entered: 12/18/2018)
12/18/2018	<u>12</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 12/10/2018. Answer due for ALL FEDERAL DEFENDANTS by 1/9/2019. (DeLaquil, Mark) (Entered: 12/18/2018)
12/18/2018	<u>13</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 12/7/2018. (DeLaquil, Mark) (Entered: 12/18/2018)
01/08/2019	<u>14</u>	MOTION to Stay by UNITED STATES PATENT AND TRADEMARK OFFICE (Attachments: # <u>1</u> Text of Proposed Order)(Coles–Huff, Doris) (Entered: 01/08/2019)
01/16/2019		MINUTE ORDER: Granting <u>14</u> Unopposed Motion to Stay. All deadlines are hereby STAYED. Defendant's counsel shall notify the court promptly after Congress has appropriated funds for the Justice Department. It is further ordered that all current deadlines for the parties shall be extended commensurate with the duration of the lapse in appropriations. Signed by Judge Tanya S. Chutkan on 1/16/19. (DJS) (Entered: 01/16/2019)
02/05/2019	<u>15</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Jason Todd Cohen on behalf of UNITED STATES PATENT AND TRADEMARK OFFICE Substituting for attorney Doris Denise Coles–Huff (Cohen, Jason) (Entered: 02/05/2019)
02/05/2019	<u>16</u>	NOTICE of Restored Government Funding by UNITED STATES PATENT AND TRADEMARK OFFICE (Cohen, Jason) (Entered: 02/05/2019)
02/13/2019	<u>17</u>	ANSWER to Complaint by UNITED STATES PATENT AND TRADEMARK OFFICE.(Cohen, Jason) (Entered: 02/13/2019)
02/14/2019		MINUTE ORDER: Before the Court in this FOIA case are a complaint and an answer. The requirements of LCvR 16.3 and Rule 26(f) of the Federal Rules of Civil procedure appear to be inapplicable. IT IS HEREBY ORDERED that the parties shall meet and confer and propose a schedule for proceeding in this matter. The schedule shall address the status of Plaintiff's FOIA request, the anticipated number of documents responsive to Plaintiff's FOIA request, the anticipated date(s) for release of the documents requested by Plaintiff, whether a motion for an Open America stay is likely in this case, whether a Vaughn index will be required in this case, whether and when either party anticipates filing a dispositive motion, and any other pertinent issues. The parties shall file a joint status report that addresses these issues no later than 3/14/19. The joint status report shall be accompanied by a proposed order. Signed by Judge Tanya S. Chutkan on 2/14/19. (DJS) (Entered: 02/14/2019)
02/14/2019		Set/Reset Deadlines: Joint Status Report due by 3/14/2019. (tb) (Entered: 02/14/2019)
02/15/2019		Set/Reset Deadlines: Joint Status Report due by 3/14/2019. (tb) (Entered: 02/15/2019)
03/14/2019	<u>18</u>	Joint STATUS REPORT by GILBERT P. HYATT. (Attachments: # <u>1</u> Text of Proposed Order)(Grossman, Andrew) (Entered: 03/14/2019)
04/03/2019		MINUTE ORDER: Having considered the parties' Joint Status Report <u>18</u> , it is hereby ordered that the parties shall adhere to the following briefing schedule: Plaintiff 's Motion for Summary Judgment due 4/10/19. Defendant's Opposition and Combined Cross–Motion for Summary Judgment due 5/10/19. Plaintiff 's Reply and Combined Opposition due 5/31/19. Defendant's Reply due 6/21/19. Signed by Judge Tanya S. Chutkan on 4/3/19. (DJS) (Entered: 04/03/2019)
04/03/2019		Set/Reset Deadlines: Cross Motion due by 5/10/2019. Response to Cross Motion due by 5/31/2019. Reply to Cross Motion due by 6/21/2019. Summary Judgment motion due by 4/10/2019. Response to Motion for Summary Judgment due by 5/10/2019.

		Reply to Motion for Summary Judgment due by 5/31/2019. (tb) (Entered: 04/03/2019)
04/10/2019	<u>19</u>	MOTION for Summary Judgment by GILBERT P. HYATT (Attachments: # <u>1</u> Declaration, # <u>2</u> Statement of Facts, # <u>3</u> Text of Proposed Order)(DeLaquil, Mark) Modified on 4/10/2019 at counsel's request to seal the, motion, main document (ztd). (Entered: 04/10/2019)
04/10/2019	<u>20</u>	SEALED MOTION FOR LEAVE TO FILE DOCUMENT UNDER SEAL filed by GILBERT P. HYATT (This document is SEALED and only available to authorized persons.) (Attachments: # <u>1</u> Exhibit, # <u>2</u> Text of Proposed Order)(DeLaquil, Mark) (Entered: 04/10/2019)
04/10/2019	<u>21</u>	REDACTED DOCUMENT– Summary Judgment Motion to <u>19</u> MOTION for Summary Judgment by GILBERT P. HYATT. (DeLaquil, Mark) (Entered: 04/10/2019)
04/11/2019	<u>22</u>	STRICKEN FROM THE RECORD PURSUANT TO MINUTE ORDER FILED ON 05/15/19.....SEALED DOCUMENT (ERRATA) filed by GILBERT P. HYATT re <u>20</u> SEALED MOTION FOR LEAVE TO FILE DOCUMENT UNDER SEAL filed by GILBERT P. HYATT (This document is SEALED and only available to authorized persons.) (This document is SEALED and only available to authorized persons.)(DeLaquil, Mark) Modified to add "errata" on 4/11/2019 (ztd). Modified on 5/15/2019 (tb). (Entered: 04/11/2019)
05/10/2019	<u>23</u>	Cross MOTION for Summary Judgment by UNITED STATES PATENT AND TRADEMARK OFFICE (Attachments: # <u>1</u> Declaration of Louis J. Boston, Jr., Certifying Contents of the Administrative Record)(Cohen, Jason) (Entered: 05/10/2019)
05/10/2019	<u>24</u>	Memorandum in opposition to re <u>19</u> MOTION for Summary Judgment (<i>duplicate of ECF No. 23</i>) filed by UNITED STATES PATENT AND TRADEMARK OFFICE. (Attachments: # <u>1</u> Declaration of Louis J. Boston, Jr., Certifying Contents of the Administrative Record)(Cohen, Jason) (Entered: 05/10/2019)
05/15/2019		MINUTE ORDER: Plaintiff's Summary Judgment Exhibits, ECF No. 20–1, have been docketed in a manner that makes it difficult for the court to locate Exhibits in the submission that exceeds 1,000 pages. Therefore, by June 3, 2019, Plaintiff shall refile the Exhibits so that each Exhibit corresponds with a separate ECF entry (e.g., Ex. A as ECF No. 25–1, Ex. B as ECF No. 25–2, Ex. C as ECF No. 25–3). Additionally, after the Plaintiff's deadline for submitting its motion for summary judgment, the Plaintiff filed an "Errata" <u>22</u> , without leave of court and without any indication what the attached document is intended to replace in the filing at ECF No. <u>20</u> . Accordingly, the Errata <u>22</u> is hereby STRICKEN. Plaintiff may file a motion for leave to refile ECF No. <u>22</u> that explains the purpose of the Errata. Signed by Judge Tanya S. Chutkan on 5/15/19. (DJS) (Entered: 05/15/2019)
05/20/2019		Set/Reset Deadlines: Plaintiff shall refile the Exhibits to [20–1] due by 6/3/2019. (tb) (Entered: 05/20/2019)
05/28/2019	<u>25</u>	SEALED MOTION filed by GILBERT P. HYATT re <u>20</u> SEALED MOTION FOR LEAVE TO FILE DOCUMENT UNDER SEAL filed by GILBERT P. HYATT (This document is SEALED and only available to authorized persons.), <u>22</u> Sealed Document, (This document is SEALED and only available to authorized persons.) (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3, # <u>5</u> Exhibit 4, # <u>6</u> Exhibit 5, # <u>7</u> Exhibit 6, # <u>8</u> Exhibit 7, # <u>9</u> Exhibit 8, # <u>10</u> Exhibit 9, # <u>11</u> Exhibit 10, # <u>12</u> Exhibit 11, # <u>13</u> Exhibit 12, # <u>14</u> Exhibit 13, # <u>15</u> Exhibit 14, # <u>16</u> Exhibit 15, # <u>17</u> Exhibit 16, # <u>18</u> Exhibit 17)(DeLaquil, Mark) Modified text and event on 5/30/2019 (ztd). (Entered: 05/28/2019)
05/31/2019	<u>26</u>	REPLY to opposition to motion re <u>19</u> MOTION for Summary Judgment filed by GILBERT P. HYATT. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(DeLaquil, Mark) Modified text on 6/3/2019 (ztd). (Entered: 05/31/2019)
05/31/2019	<u>27</u>	Memorandum in opposition to re <u>23</u> Cross MOTION for Summary Judgment (<i>duplicate of ECF No. 26</i>) filed by GILBERT P. HYATT. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(DeLaquil, Mark) (Entered: 05/31/2019)

06/13/2019	<u>28</u>	Unopposed MOTION for Extension of Time to File <i>Brief</i> by UNITED STATES PATENT AND TRADEMARK OFFICE (Cohen, Jason) (Entered: 06/13/2019)
06/14/2019		MINUTE ORDER: Granting <u>28</u> Motion to Extend Deadlines. Defendant's reply in support of its cross-motion for summary judgment is due July 12, 2019. Signed by Judge Tanya S. Chutkan on 6/14/19. (DJS) (Entered: 06/14/2019)
06/18/2019		Set/Reset Deadlines: Reply to Cross Motion due by 7/12/2019. (tb) (Entered: 06/18/2019)